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CASES AND MATERIALS

1986 - 1987

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SECURITIES REGULATION - MATERIALS AND CASES

1986 - 1987

WILLIAM K. ORR

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UNIVERSITY OF TORONTO

SECURITIES REGULATION

1986

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BIBLIOGRAPHY

I. THE ESSENTIAL ELEMENTS OF CANADIAN SECURITIES REGULATION.

SEE GENERALLY:

Alboini, Ontario Securities Law, (1980)

Alboini, Securities Law and Practice (3 vols.) (1984)

Johnston, Canadian Securities Regulation, (1977) and Johnston et al (Supplement 1982)

Loss, Fundamentals of Securities Regulation, (1983) (U.S.)

Report of the Attorney-General's Committee on Securities Legislation in Ontario, March 1965 (Kimber Report)

Report of the Committee of the Ontario Securities Commission on the Problems of Disclosure Raised for Investors by Business Combinations and Private Placements, February, 1970 (Merger Study)

1973 Report on Mergers, Amalgamations and Certain Related Matters by Select Committee on Company Law (Ontario) (1973 Merger Report)

Toronto Stock Exchange, The Toronto Stock Exchange Company Manual, (September, 1984)

Williamson, Securities Regulation in Canada, (1960) and (Supplement 1966)

REMEDIES

Alboini, Ontario Securities Law (1980) at pages 856-923

Loss, Fundamentals of Securities Regulation, (1983) at pages 1007-1216

McLaughlin, Stapleton, and Harman, "Indemnity and Contribution", 13 Inst. on Sec. Reg. 245 (1982)

Simmonds, "Directors' Negligent Mis-statement Liability in a Scheme of Securities Regulation", 11 Ottawa Rev. 633 (1979)

II. HOW TO PREPARE A PROSPECTUS

(b) PROSPECTUS PREPARATION - DUE DILIGENCE

Articles:

Canada:

Alboini, "Due Diligence and the Role of the Securities Lawyer", 6 Can. Bus. L.J. 241 (1982)

Barrington, "Due Diligence: There should be no mistake about it", C.A. Magazine 34 (December, 1983)

Beck, S.M., "The Role and Responsibilities of the Lawyer in the Securities Law Context", Recent Securities and Corporate Law Developments Advice to my Client, Canadian Bar Association - Continuing Legal Education (May, 1980)

Coleman, "Prospectus Preparation, Audit Committees and Advice to Potential Targets", Recent Securities and Corporate Law Developments Advice to my Client, Canadian Bar Association - Continuing Legal Education (May, 1980)

O'Connor, "The Securities Act in Operation: Public and Private Distributions of Securities in Ontario", 1982 LSUC 103

United States:

Darrow and Sobel: "Underwriters 'Due Diligence'", Mechanics of Underwriting 1983, 423, Practising Law Institute (1983)

Greene, "Determining the responsibilities of underwriters distributing securities within an integrated disclosure system", 56 Notre Dame Law 755 (June 1981)

"The Impact of the SEC's Shelf Registration Rule on Underwriters 'Due Diligence Investigations'", 51 Geo. Wash. L. Rev. 767 (August, 1983)

Nicolas, "Integrated Disclosure System and its Impact Upon Underwriters' Due Diligence: Will Investors be Protected?", 11 SEC REG L.J. 3 (Spring 1983)

Cases:

Competitive Associates, Inc. v. International Health Sciences, Inc., CCH. Fed. Sec. L. Rep. paragraph 94966 at 97337 (S.D.N.Y. 1975)

Escott v. BarChris Construction Corp., 283 F. Supp. 643 (S.D.N.Y. 1968)

Feit v. Leasco Data Processing Equipment Corp., 332 F. Supp. 544 (E.D.N.Y. 1971)

In the Matter of Canada Cement Lafarge Limited and Standard Industries Limited [1980] OSC Bulletin 400

In the Matter of The Securities Act and In The Matter of A.E. Ames and Co., Ltd., William Beatty MacDonald and Ronald Alexander Gunn [1972] O.S.C.B. 1980.

In the Matter of Donald W. Reed et al, Alberta Securities Commission, May 19, 1983

(d) **SHORT FORM PROSPECTUS - PROMPT OFFERING QUALIFICATION SYSTEM**

Canada:

Lococo, "Prompt Offering Qualification System: Experience To Date", Securities Law, Canadian Bar Association - Continuing Legal Education (October 1983)

United States:

See Integrated Disclosure System, Sec. Act Rel. 6383, 6437 CCH Fed. Sec. L. Rep. paragraph 72975

Rule 415 - Shelf Registration, Sec. Act Rel. 6499, Exchange Act Rel. 2384, Holding Co. Act Rel. 23122. CCH Fed. Sec. L. Rep. paragraph 83449 (1983)

Banoff "Regulatory Subsidies, Efficient Markets, and Shelf Registration: Analysis of Rule 415", 70 Va. Law Rev. 135 (1984)

Herman "Rule 415 and the Changing Marketplace", 14 Inst. on Sec. Reg. 51 (1983)

"The Impact of the Sec's Shelf Registration Rule on Underwriters' Due - Diligence Investigations" 51 Geo. Wash. Law Rev. 767 (August 1983)

Spencer, Jr., "Rule 415, The Later Continuous Offering and Sale of Securities", 14 Inst. on Sec. Reg. 45 (1983)

"SEC Study Reports Shelf Registration is Boon for Issuers", The Wall Street Journal, September 17, 1984 page 35

White, "Responses to Rule 415 and Other Rapid Offerings", 14 Inst. on Sec. Reg. 89 (1983)

(g) **EARNINGS FORECASTS**

Alboini, "Discussion of Canadian Legal Environment for Public Forecasting" in Kidd, Earnings Forecasts (1976) at pages 207 et seq.

Elmlund, "The Safe-Harbor Rule and Projections: Caveat Projector", 11 Loyola U.L.J. 345 (Winter 1980)

Hurtobise and Sylph, "Financial Forecasts and Projections: Engagements on Two Levels?" CA Mag (January, 1985) 48

"Mandatory Disclosure of Corporate Projections and the Goals of Securities Regulation", 81 Colum L. Rev. 1525 (November 1981)

(1) **UNDERWRITING AGREEMENT**

Johnston, Canadian Securities Regulation (1977) at pages 135-140

Leiman, "Underwriting Documents" Mechanics of Underwriting 501, Practising Law Institute (1983)

LeMesurier "The Function of the Underwriter" Corporate and Securities Law, 1972 LSUC 259

Loss, Fundamentals of Securities Regulation (1983) at pages 81-91

(m) CLOSING MATTERS - OPINIONS

Canada:

Barrington, "Southern Comfort for Canadian Underwriters", C.A. Magazine 58 (November, 1981)

Emerson, Voorheis and Allen, "Some Initial Thoughts on Selected Areas Concerning Legal Opinions in Securities Transactions", Legal Opinions in Commercial Transactions, LSUC (December 3, 1983)

United States:

The Association of the Bar of The City of New York, "Report by Special Committee on Lawyers' Role in Securities Transactions", 32 Bus. Lawyer 1879 (1977)

Block, "The Evolving Problems for and Responsibilities of Attorneys under the Federal Securities Laws - An Overview: Responsibilities of Attorneys under the Federal Securities Laws", 36 Bus. Lawyer 1781 (1981)

Jacobs, Opinion Letters in Securities Matters (1983)

Leiman, "Liability of Attorneys involved in the Preparation of Disclosure Documents", Thirteenth Annual Institute on Securities Regulation, Practising Law Institute, (1982) at 281

Opinion Letters of Counsel, Practising Law Institute (1984)

Sommer, "The Emerging Responsibilities of the Securities Lawyer", CCH Fed. Sec. L. Rep. 79,631 (1974)

III. USE OF THE PROSPECTUS EXEMPTIONS

PRIVATE PLACEMENTS IN CANADA

Alboini, Ontario Securities Law (1980) at pages 423-527

Alboini and Miner, "Selected Private Placement Exemptions in Securities Legislation in Canada", Canadian Bar Association - Continuing Legal Education (October 1983)

Buckley, "Small Issuers Under the Ontario Securities Act, 1978: A Plea for Exemptions", 29 U. Toronto L.J. 309 (1979)

Chapman, "The Securities Act, 1978 and the Occasional Partitioner: The Private Company Exemption is Not for the Meek", Recent Securities and Corporate Law Developments Advice to my Client, Canadian Bar Association - Continuing Legal Education (1980)

Drinkwater, Orr and Sorell, Private Palcements in Canada (Carswell) (1985)

Emerson, "Business Finance Under the 'Closed System' of the Ontario Securities Act: Statutory Scheme and Pitfalls", Corporate Law in the 80's, 1982 LSUC 29

Emerson, "Vendor Beware: The Issue and Sale of Securities Without a Prospectus Under the Securities Act, 1978 (Ontario)", 57 Can. Bar Rev. (1979)

Simmonds, "Of Prospectuses and Closed Systems: An Analysis of Some Present and Proposed Legislation in Canada and the United States", 19 OHLJ 28 (1981)

Sorell, "Offering Memoranda Under the Ontario Securities Act, 1978", 4 Can. Bus. L.J. 467 (1980)

DAY TO DAY SERVICING OF PUBLIC COMPANIES

(b) **TIMELY DISCLOSURE**

Alboini, Ontario Securities Law (1980) at pages 530-46

Crawford, "'Timely Disclosure' Trading on the Basis of Material, Non-public Information and the Legislating of Generally Accepted Accounting Principles", Recent Securities and Corporate Law Developments Advice to My Client, Canadian Bar Association - Continuing Legal Education (May, 1980)

Block, Barton, Garfield, "Affirmative Duty to Disclose Material Information concerning Issuer's Financial Condition and Business Plans", 40 Bus. Law. 1243 (August 1985)

Negative News, Practising Law Institute (1984)

Wander, "Timely Disclosure", 1 15th Annual Institute on Securities Regulation 9, Practising Law Institute (1983)

(c) INSIDER REPORTING RULES AND INSIDER TRADING

Articles:

Baillie and Alboini, "The National Sea Decision - Exploring the Parameters of Administrative Discretion" 2 Can. Bus. L.J. 454 (1978)

Beck, S.M., "Of Secretaries, Analysts and Printers: Some Reflections on Insider Trading", 8 Can. Bus. L.J. 385 (1984)

Brudney, "Insiders, Outsiders and Informational Advantages Under The Federal Securities Laws". 93 Harv. L. Rev. 322 (1979)

Buckley, "How to Do Things with Inside Informtion", 2 Can. Bus. L.J. 343 (1977-78)

Carlton and Fischel, "The Regulation of Insider Trading", 35 Stan. L. Rev. (May 1983)

Farley, "A Current Look at the Law of Insider Trading", Bus. Law. 1771 (August 1984)

Johnston, "Comment - Green v. CharterHouse Group Canada Limited", 15 UWOL Rev. 239 (1976)

Langevoot, "Insider Trading and the Fiduciary Principle: A Post Chiarella Restatement", 70 Cal. L. Rev. 1 (1982)

Rosenbaum, Simmonds, and Vaidila, "Corporate and Investment Attitudes Towards Insider Trading in Canada", 8 Can. Bus. L.J. 485 (1984)

Cases:

Chiarella v. United States (1980) 445 U.S. 222 (Supreme Court - United States)

Dirks v. SEC (1983) 103 S.Ct. 3255 (Supreme Court United States)

Green v. CharterHouse Group Canada Ltd., (1976) 12 O.R. (2d) 280; (1976) 68 D.L.R. (3d) 592 (Ont. C.A.)

In the Matter of Harold Connor, Clarence Joseph Morrow, William Owen Morrow, James Benjamin Morrow, Charles Ross MacFadden, Jack Burton Estey (June 1976), OSC Bulletin 149 ("The National Sea Decision")

NIR Oil Ltd. v. Bodrug (1983) 23 B.L.R. 52 (Alta. Q.B.)

Sparling v. Royal Trust Co. Ltd. et al (1984), 24 B.L.R. 145 (Ont. C.A.)

Re Royal Trust Co. and OSC, (1983) 42 O.R. (2d) 147 (Div. Ct.)

(d) **PROXY RULES**

Alboini, Ontario Securities Law (1980) pages 588-625

Getz, "The Structure of Shareholder Democracy" in Ziegel ed., 2 Canadian Company Law (1973) at page 239

Loss, Fundamentals of Securities Regulation (1983) at pages 509-567

Brown v. Duby (1980), 111 D.L.R. (3d) 418, 28 O.R. (2d) 745 (Ont. H. Ct.)

Garvey v. Axmith et al (1962) 31 D.L.R. (2d) 65, [1962] O.R. 65 (Ont. H. Ct.)

(c) RELIEF FROM REPORTING OBLIGATIONS

Re Denison Mines and OSC (1981) 32 O.R. (2d) 469; (1981) 122 D.L.R. (3d) 98; 1 OSC Bulletin 27 C

Seagram Company Ltd. (1981) 2 OSC Bulletin 24 C

Alboini, Ontario Securities Law (1980) at pages 573-579

VI. CONTACTS WITH REGULATORS

INVESTIGATIONS

Baillie, "Discovery Type Procedures in Securities Fraud Prosecutions", 50 Can. Bar Rev. 496 (1972)

Thomson, "Concepts and Procedures in Hearings before the Ontario Securities Commission", Corporate and Securities Law, 1972 LSUC 95

ETHICAL CONSIDERATIONS

Beck, S.M., "The Role and Responsibilities of the Lawyer in the Securities Law Context", Recent Securities & Corporate Law Developments Advice to my Client, Canadian Bar Association - Continuing Legal Education (May, 1980)

The Law Society of Upper Canada, Professional Conduct Handbook (February, 1983)

American Bar Association, The Model Rules of Professional Conduct (August, 1983)

SEC v. National Student Marketing Corp. (1978) 457 F. Supp. 682 (U.S.D.C. Col.)

VII. TAKE-OVER BIDS

SEE GENERALLY

Beattie, Emerson, Jackson and Pink, Acquisitions and Mergers: How the New Rules Affect Decision Making, Recent Securities and Corporate Law Developments Advice to my Client, Canadian Bar Association - Continued Legal Education (May, 1980)

Coleman, "Take-over Bids, Insider Bids and Going - Private Transactions - Recent Developments", Corporate Law in the 80's, 1982 LSUC 155

Consensus on Amendments to Take-Over Bid/Issuer Bid Rules, 7 OSC Bulletin 1415 (1984)

The Use of Certain Defensive Tactics by a Target Company in the Course of a Take-Over Bid, 7 OSC Bulletin 1335 (1984)

Report of the Committee to Review the Provisions of the Securities Act (Ontario) Relating to Take-Over Bids and Issuer Bids (September, 1983)

Weinberg and Blank, Take-Overs and Mergers, (1979)

Articles:

Canada:

Iacobucci, "Planning and Implementing Defences to Take-Over Bids: The Directors' Role" 5 Can. Bus. L.J. 131 (1980-81)

United States:

The Theoretical Debate:

Bedchuk, "The Case for Facilitating Competing Tender Offers", 95 Harv. L. Rev. 1028 (March, 1982)

Fischel, McKinney and Goldschmid, "Responsibilities of Directors in Connection with Unfriendly Tender Offers", 13 Inst. on Sec. Reg. 131 (1982)

Gilson, "Structural Approach to Corporations: The Case Against Defensive Tactics in Tender Offers", 33 Stan. L. Rev. 819 (May, 1981)

Gilson, "Case Against Shark Repellent Amendments: Structural Limitations on the Enabling Concept", 34 Stan. L. Rev. 775 (April, 1982)

Lipton, "Take-Over Bids in the Target's Boardroom", 35 Bus. Lawyer 101 (1979)

Lipton, "Take-Over Bids in the Target's Boardroom: An Update After One Year", 36 Bus. Lawyer 1017 (1981)

Symposium, Easterbrook, Fischel, Bebchuk and Gilson, 35 Stan. L. Rev. 1 (1982)

Tactics:

Aranow and Einhorn, Tender Offers for Corporate Control (1972)

Atkins "Mergers and Acquisitions: Developments in Certain Defensive Techniques", 1 15th Annual Institute on Securities Regulation 751, Practising Law Institute (1983)

Banner and Finley, "Shark Repellent Charter and By-Law Provisions", 1 15th Annual Institute on Securities Regulation 629, Practising Law Institute (1983)

"Duties of Employee Benefit Plan Trustees Under ERISA in Hostile Tender Offers", 82 Colum. L. Rev. 1692 (December, 1982)

Finklestein, "Anti Take-Over Protection Against Two-Tier and Partial Tender Offers: The Validity of Fair Price, Mandatory Bid, and Flip-Over Provisions under Delaware Law 11", Sec. Reg. L.J. 291 (1984)

Fleischer, Tender Offers: Defences, Responses and Planning (1978)

Friedenberg, "Jaws III: The Impropriety of Shark-Repellent Amendments As a Take Over Defense", 7 Del. J. Corp. L. 32 (1982)

"Front-End Loaded Tender Offers: The Application of Federal and State Law to an Innovative Corporate Acquisition Technique", 131 U. Pa. L. Rev. 389 (December, 1982)

"Household's 'Poison Pill' Stirs Debate About The Practices Fairness to Holders", The Wall Street Journal, September 13, 1984, page 12

Katz and Loeb, "Acquisitions and Mergers 1985 - Tactics, Techniques and Recent Developments", Practicing Law Institute

Lipton and Browstein, "Takeover Responses and Directors' Responsibilities - An Update", 40 Bus. Law. 1403 (August, 1985)

"Mobil Corp. v. Marathon Oil Co. [669 F. (2d) 336] - the decision and its implications for future tender offers", 7 Corp. L. Rev. 223 (1984)

Robinson, "Defending Target Companies, Strategy to Prevent a Take Over", 32 Bus. Lawyer 1361 (1977)

Rotman, "Lock-Ups and Leg-Ups: The Foot in the Door Technique", New Directions in Corporate Finance, Insight (1985)

Sparks, III, "State Law Developments Concerning Defensive Techniques", 14 Inst. on Sec. Reg. 225 (1983)

"Tender Offer Defensive Tactics and the Business Judgment Rule", 58 NYU L. Rev. 621 (1983)

7. (c) **ISSUER AND INSIDER BIDS**

Alboini, Ontario Securities Law (1980) at pages 631-47

Brudney, "A Note on Going Private", 61 Va. L. Rev. 1019 (1975)

Brudney, "Equal Treatment of Shareholders in Corporate Distributions and Reorganizations", 71 Calif. L. Rev. 1072 (1983)

Brudney and Chirelstein, "A Restatement of Corporate Freezeouts", 87 Yale L.J. 1354 (1978)

Corbett, Geller, and Salter, "Issuer Bids, Insider Bids and Squeeze-Outs: Where do they stand today?", Recent Securities and Corporate Law Developments Advice To My Client, Canadian Bar Association - Continuing Legal Education (May, 1980)

Glover, Jr. and Schwartz, "Going Private in Canada", 3 Can. Bus. L.J. 3 (1978-79)

Kroft, "The Going Private Transaction", 12 Ottawa L. Rev. 49 (1980)

Kroft, "Further Reflections on 'Going Private' - Towards a Rational Scheme of Regulating Minority Squeeze Out Transactions", 13 Ottawa L. Rev. 356 (1981)

Sorell, "Squeeze-Outs and Going Private Transactions" Canadian Securities Law, Richmond House Publishing Ltd., Canadian Professional Conferences, (May 14, 1981)

GENERAL

Hadden, Forbes and Simmonds, Canadian Business Organization Law, (1984)

Hay, "The Shareholder's Pre-Emptive Right: Prevention of Director Abuse in New Share Issuance", 9 Can. Bus. L.J. 2 (1984)

Laskowski, "The Publicly-held Canadian Company and the United States Securities and Exchange Commission: A New Relationship", (1985) 43 Advocate 77-79

Leclerc, "Restricted Shares: the Critic as Playwright", Business and Law 58-60 (1984)

Peat Marwick, Going Public in Canada (August 1985)